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NORFOLK & W. RY. CO. v. TOWN OF SUFFOLK.

January 22, 1905.

[49 S. E. 658.]

BUSINESS LICENSE—RAILROAD COMPANIES—MUNICIPAL AUTHORITY—CONSTITUTIONAL PROVISIONS.

1. Suffolk Town Charter, sec. 18, providing that "whenever any business, trade, occupation, calling, or any other thing, is to be done within the town for which a state license is or may be required, the council may require a town license to be had for doing the same," authorizes an ordinance imposing a license tax on a railroad company doing business in the town, though it is for a failure to transact its business as provided by Code 1887, sec. 1200, in addition to its common law liability, amenable, under section 1201, to a fine

2. Suffolk Town Charter, sec. 18, providing for an occupation tax, as applied to the business of a railroad company, is not in conflict with Const. art 10, sec. 4 [Va. Code 1904, p. cclxii, sec. 170], permitting the legislature to impose license tax on any business which cannot be reached by the *ad valorem* system.

WILLIAMSON et al. v. PAYNE et al.

February 2, 1905.

[49 S. E. 660.]

APPEAL AND ERROR—AMOUNT—BURDEN—TRUST DEED—PERSONAL PROPERTY—DESCRIPTION—COSTS.

1. Generally speaking, the value or amount in controversy must be made to appear affirmatively on appeal, but where the original demand is pecuniary and in excess of the jurisdictional amount, and is alleged by the appellee to have been reduced below that amount by payment, the onus rests upon him to make that fact appear.

2. Costs of executing the trust and of drawing and recording the deed are, when secured by the deed, to be considered part of the amount in controversy, when the deed is attacked.

3. Where there is a description of the property mortgaged, and the description is true, and by the aid of such description and the surrounding circumstances a third person would, in the ordinary course of things, know the property was mortgaged, the description is sufficient.

4. The recording of a trust deed of personal property, which furnishes a stranger with a means of identifying the property, gives constructive notice.

JONES v. COMMONWEALTH.

February 2, 1905.

[49. S. E. 663.]

ARSON—EVIDENCE.

Evidence that a fire was incendiary, and that the accused had an opportunity to commit the crime, and ill feeling toward the owner of the property, without more, cannot sustain a conviction.